IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.38452 of 2004 and
W.M.P.No.45997 of 2004

Murugasen ... Petitioner

-Vs-

1.The District Collector
Nagapattinam District
Nagapattinam.

2.The Revenue Divisional Officer,
Mayiladuthurai.

3.The Tahsildar
Mayiladuthurai. ... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the order passed by the 2nd respondent in Na.Ka.No.4379/2004/A4 dated 17.12.2004 and quash the same.

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For petitioner : Mr. R.Shivakumar

For Respondents : Mr. Akhil Akbar Ali,
Government Advocate.

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ORDER

The order dated 17.12.2004 issued by the second respondent is under challenge in the present writ petition.

2. Learned counsel appearing on behalf of writ petitioner states that the stay petition filed by the writ petitioner was dismissed by second respondent, who has no jurisdiction to pass an order. Learned counsel for the petitioner further states that the first respondent District Collector is the authority to deal with the interim application, in view of the fact that the appeal filed by the writ petitioner under Section 10(a) of the Tamil Nadu Land Encroachment Act, 1905 is pending before the District Collector.

3. This Court is of an opinion that Government poramboke lands, water bodies and water resources are to be protected by the State. Undoubtedly, encroachers have no rights towards public properties. The Government poramboke lands, water bodies and water resources are to be utilised for the benefits of public at large. However, while evicting the encroacher, the competent authorities have to follow the procedure contemplated under the Tamil Nadu Encroachment Act. In the present case, admittedly an appeal was filed by the writ petitioner before the first respondent under Section 10(a) of

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the Tamil Nadu Land Encroachment Act, 1905, and the said appeal is pending.

4. Thus the first respondent has to consider the appeal filed by the writ petitioner and pass orders on merits and in accordance with law by affording opportunity to the writ petitioner and thereafter initiate appropriate action to evict all the encroachers in respect of the Government poramboke lands, water bodies and water resources.

5. This being the factum of the case, the first respondent is directed to consider the appeal filed by the writ petitioner on 26.10.2004 and pass orders on merits and in accordance with law and consequently initiate all further actions under the provisions of the Tamil Nadu Land Encroachment Act, 1905 with reference to the Government poramboke lands, water bodies and water resources. The said appeal filed by the writ petitioner is directed to be disposed of within a period of six weeks from the date of receipt of a copy of this order. The writ petitioner is directed to enclose the copy of the appeal and the documents if any along with the order passed in the present writ petition.

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Accordingly, the writ petition stands disposed of. Consequently, connected Miscellaneous petition is closed. No costs.

18.12.2018

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Internet: Yes
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S.M.SUBRAMANIAM, J.

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To

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Nagapattinam District
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